

NOTICE OF IMPOSITION OF ADDITIONAL LICENCE CONDITION

LICENSEE:

South East Coast Ambulance Service NHS Foundation Trust ("the Licensee")
The Horseshoe
Bolters Lane
Banstead
SM7 2AS

DECISION:

On the basis of the grounds set out below and having had regard to its Enforcement Guidance, Monitor has imposed the additional licence condition specified below on the Licensee pursuant to its powers under section 111 of the Health and Social Care Act 2012 ("the Act").

THE LICENCE IS AMENDED AS FOLLOWS:

After Condition FT4, insert:

"Additional Licence Condition 1 – Additional governance requirements:

- 1) The Licensee must ensure that it has in place:
 - a) an effectively functioning board and board committees;
 - b) sufficient and effective board, management and clinical leadership capacity and capability; and
 - c) appropriate governance systems and processes,
to enable it to address the issues specified in paragraph 2.
- 2) The issues referred to in paragraph 1 are:
 - a) the failures in governance of the Licensee that have led to the enforcement undertakings accepted by Monitor on 23 October 2015; and
 - b) any other issues relating to governance or operations that have caused or contributed to, or are causing or contributing to, or will cause or contribute to, the breach of the conditions of the Licensee's licence.

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

Monitor anticipates that the effect of imposing the additional condition will be as set out below under the heading(s) 'Need for Action' in the section below headed 'Grounds'.

INCIDENTAL OR CONSEQUENTIAL MODIFICATIONS REQUIRED AS A RESULT OF THE IMPOSITION OF THE ADDITIONAL CONDITION:

No incidental or consequential modifications would be required to the Licensee's licence.

FOUNDATIONS:

1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act.

2. Power to impose additional licence condition(s)

2.1. Monitor is satisfied that the governance of the Licensee is such that the Licensee will fail to comply with one or more of the following conditions of the Licensee's licence: FT4(2); FT4(4)(a) - (c); FT4(5)(b)-(c) and (e)-(f); and FT4(6)(b) and (d).

2.2. Need for action

2.2.1. The following operating standards apply to calls received from the public by ambulance trusts:

- a) Red 1 (R1): This applies to presenting conditions which may be immediately life threatening. They should receive an emergency response within 8 minutes irrespective of location in 75% of cases presenting (3 out of 4 people). 95% should be reached within 19 minutes. This target is set nationally.
- b) Red 2 (R2): This applies to presenting conditions which may be life threatening but less time critical. They should receive an emergency response within 8 minutes irrespective of location in 75% of cases presenting (3 out of 4 people). 95% to be reached within 19 minutes. This target is set nationally.
- c) Green 2(G2): This applies to less serious incidents that still require a response. Response times are set locally by commissioners at 30 minutes.
- d) Green 4(G4): This applies to less serious incidents that still require a response. Responses are set locally by commissioners at 60 minutes.

2.2.2. The Licensee carried out a project to change standard operating procedures for calls made to 111 which were classified as R2 and G2 ("the Project"). The Project involved R2 and G2 calls to NHS 111 being sent to a queue to await a clinician to undertake a second assessment to check that an appropriate response time had been assigned. The Licensee set a time limit of 10 minutes to re-triage the R2 calls and 20 minutes to re-triage the G2 calls. The Licensee has accepted the following in relation to the Project:

- (a) the Licensee implemented a project that did not comply with nationally agreed operating standards;
- (b) key staff were not consulted during the design and implementation of the Project;
- (c) there are no minutes kept of any of the meetings of the Operational Strategic Delivery Group, the group from which the Project emerged;

- (d) Executives from the Licensee's Board were participants and key decision makers on the Operational Strategic Delivery Group ("OSDG") but the Group had no reporting lines into any of the recognised governance committees;
- (e) no risk assessments were carried out for the Project and it was never entered onto the Licensee's risk register before it went live despite the risks as the Project was a clear departure from national operating standards;
- (f) there was a lack of formal documentation about the project, including an absence of minutes of any of the meetings for the OSDG and no attendance records;
- (g) the review of clinical incidents had insufficient clinical input and key departments within the department were unaware of the Project;
- (h) neither the Licensee's Board nor the committees reporting to it had formal reports about the Project prior to it commencing; and
- (i) although the Licensee carried out its own internal investigation in relation to the Project, there were omissions in the investigation, for example, it did not fully consider how the events took place and how decisions were made (including who made them).

2.2.3. In the light of all these matters and the other available evidence, Monitor is satisfied that the Board is failing to secure compliance with the Licensee's licence conditions and failing properly to take steps to reduce the risk of non-compliance.

2.2.4. Monitor considers that the imposition of the condition specified above would be appropriate for reducing the risk of non-compliance identified above.

3. Appropriateness of Imposition of Additional Licence Condition

In considering the appropriateness of imposing this additional licence condition, Monitor has taken into account the matters set out in its Enforcement Guidance.

THE REQUIREMENTS OF THIS NOTICE ARE WITHOUT PREJUDICE TO (i) ANY DISCRETIONARY REQUIREMENT IMPOSED UNDER SECTION 105 OF THE ACT, (ii) THE REQUIREMENTS OF ANY ENFORCEMENT UNDERTAKING GIVEN BY THE LICENSEE AND (iii) THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE INCLUDING THOSE RELATING TO:

- **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
- **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

ANY FAILURE TO COMPLY WITH THIS ADDITIONAL LICENCE CONDITION WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE REQUIRING THE LICENSEE TO REMOVE ONE OR MORE OF THE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS AND APPOINT INTERIM DIRECTORS OR MEMBERS, SUSPEND ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL

OF GOVERNORS FOR A SPECIFIED PERIOD AND/OR DISQUALIFY ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS FOR A SPECIFIED PERIOD. THIS COULD INCLUDE ALSO OR INSTEAD ACTION UNDER SECTIONS 105 OR 106 OF THE ACT TO IMPOSE DISCRETIONARY REQUIREMENTS OR ACCEPT UNDERTAKINGS. MONITOR IS ALSO ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.

MONITOR

Dated: 23 October 2015

Signed:

A handwritten signature in black ink, appearing to be 'DB' followed by a stylized flourish.

David Bennett

Chair of Provider Regulation Executive